THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 27969 OF 1996

Dated: 12.02.2007

Between:

Ch. Goverdhan.

..... Petitioner

Vs.

The State of Andhra Pradesh, rep. by its Secretary to Government, Social Welfare (S) Department, Secretariat, Hyderabad and others.

.....Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.27969 of 1996

ORDER:

Aggrieved by the show cause notice dated 06.12.1996, issued by the Divisional Manager, Girijan Primary

Co-operative Marketing Society Ltd., Venkatapuram, whereby the petitioner was called upon to show cause as to why his services should not be terminated, the present writ petition is filed.

In the said show cause notice, it was stated that the petitioner was appointed as Salesman in the Domestic Requirement Depot of Girijan Co-operative Corporation in Tribal Area, contrary to the G.O.Ms.No.215 SW (S) Department, dated 23.08.1986 issued by the

Government under para 5(1) Chapter-V of the Constitution of India. G.O.Ms.No.215, dated 23.08.1986 issued in exercise of the powers conferred under para 5(1) Chapter V of the Constitution of India directs that the posts of Salesmen and Measurer-cum-Watchman in the domestic requirement depots in the schedule areas of the State under the control of the Girijan Co-operative Corporation Ltd., shall be reserved to be filled in only by the local members of the Schedule Tribes notwithstanding anything contained in any other rule or law in force. The validity of G.O.Ms.No.215 dated 23.08.1986 was impugned in W.P.No.17130 of 1994, and this Court, by order dated 09.09.2004, held that the notification had no legal efficacy and in consequence, the order by which the service of an employee was terminated was held to be without basis. This Court held that since the assent of the President has not been obtained, and till such assent is given, the regulation shall have no effect. The very same G.O.Ms.No.215 dated 23.08.1986 is under challenge in the present writ petition. Since the very Government Order, based on which the present show cause notice was issued has itself being held by this Court to have no legal efficacy, the show cause notice is clearly without jurisdiction and is accordingly quashed.

The writ petition is allowed accordingly. However, in the circumstances, without costs.

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RAMESH RANGANATHAN, J

Dated: 12.02.2007

sj